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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

EXAMINER	
O'STEEN, DAVID R	

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/960,262	CHAPIN ET AL.	
	Examiner	Art Unit	
	David R. O'Steen	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 April 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 September 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Note to Applicant

1. Art Units 2611, 2614 and 2617 have changed to 2623. Please make all future correspondence indicate the new designation 2623.

Response to Arguments

2. Applicant's arguments filed May 21, 2006 have been fully considered but they are not persuasive. On pages 6 through 9 of the Remarks section filed on May 21, 2006, the applicant traverses the examiner's U.S.C. 103 rejections of independent claims 1 and 10. The applicant cites several aspects of the rejection in particular. First the applicant states that Porteusi does not meet the limitation of "plural selectable, predetermined video advertisement segments, presented as a continuation of the dynamic sequence of the spokesperson representation." The applicant further states that Porteusi uses uniform resource locators and that the associated media is delivered over a computer network such as the Internet (pg. 6, paragraph 3, lines 8). After citing col. 1 lines 30-37 and 46-50 of Porteusi, the applicant states that Porteusi is solely concerned with "movie files for download to a computer over the Internet" (page 7, paragraph 1, lines 1-2) and that this does not meet the above mentioned limitation. Second, the applicant states that even if Portuesi met the limitation stated above, there would be no reason to combine Portuesi with Bove. The applicant maintains that combining Portuesi with Bove would change the operation of Bove and eliminate the case for obviousness. On page 8 of the Remarks, the applicant states that Bove is

designed solely to display additional data without conflicting with the video display. In support of this stance, the applicant cites paragraph 54 of Bove. Finally, the applicant states that there is no reason to combine Portuesi with Bove because doing so would substantially redesign the primary reference (pg, 8, paragraph 3, lines 4-7).

With regards to the first comment of the applicant, the examiner disagrees and maintains that Portuesi does meet the limitation of "plural selectable, predetermined video advertisement segments, presented as a continuation of the dynamic sequence of the spokesperson representation." Portuesi discloses hotspots (for example, fig. 4.40 and col. 6, lines 33-44) which are selectable by the user that are able to launch other media namely video (col. 6, lines 1-5). This user-activated media can easily be continuation of the spokesperson representation as it can be played in the same window (col. 6, lines 1-5). The examiner also maintains that this internet-based form of interaction does meet the presentation over a broadcast interactive television medium. As the applicant surely knows, traditional television, whether cable, satellite, or traditional broadcast, is not interactive as there is no way for the user to communicate upstream to the head-end or broadcast server. To remedy this situation, many in the field of interactive television communication have used the Internet or some aspects of Internet networking such as web servers, TCP/IP, or HTML to provide interactivity. The applicant also seems to embrace this method of providing interactivity to an end user. In the specification filed September 20, 2001, the applicant makes reference to linking to an advertisement related web site on lines 25-29 of page 8. On page 9, lines 26-29, the applicant states the intended use of ATVEF tags to implement the triggers in the

applicant device. ATVEF enhanced content allows the content provider to include such Internet tools as HTML (Hyper-text Markup Language, used in the design of web pages) and Javascript to add interactivity to program content (please see TechEnclyclopedia results for ATVEF). With ATVEF, it is possible to place URLs, as in Portuesi, in program content. The applicant again mentions linking to a website on page 10, lines 9-11 of the specification. The applicant also suggests that advertising segments may be downloaded from a VOD server via a broadband Internet connection (page 10, lines 20-25). The applicant also mentions downloading additional content from a web server (page 11, lines 3-5). In view of applicant's own implementation of the invention from the specification, it seems that the Internet and Internet based services are essential to providing a broadcast interactive television medium. It should also be noted the Portuesi's invention is not limited solely to the Internet but embraces the type television based interactivity that the applicant discloses (such as encoding interactive content at the source of the video signal such as the cable network, col. 8, lines 56-61). Also, in Portuesi, distribution can carried out over a cable network, satellite network, or direct transmission network (fig. 5.54, and col. 9, lines 11-13).

With the regards to the second and third objections raised by the applicant, regarding combining Portuesi with Bove, the examiner disagrees. Both Bove and Portuesi are concerned with adding interactivity to broadcast television (please see Bove, abstract and paragraphs 31, 32, and 33). Bove also uses hyperlinks, as in Portuesi, to access additional information. A user in Bove's system interacts with content in the same way, by using a remote control to select an object (paragraph 32,

lines 9-15). At the time of the invention, it would have been obvious to one skilled in the art to combine the ability to open video files from a broadcast program, as done in Portuesi, an analogous art, with the hyperlinked broadcast method of Bove, because Portuesi extends Bove's invention and allows Bove to provide additional content about selectable objects in the form of video. The examiner does not think that paragraph 54 of Bove discourages in any way from adding the supplemental video of Porteusi. Paragraph 54 discloses a method of keeping track of user and system data during an interactive session. The phrase "irrespective of the programmatic material that may displayed on a video display" just means that the data is stored as long as the user is interacting in some way with the system. This paragraph does not present a barrier to combination.

In paragraph 1 of page 9, the applicant traverses the rejection of dependent claim 6. The applicant states that the fig. 1C of Bove is inappropriate because it does not meet the limitation of "a special effect of causing an object to appear as part of the spokesperson representation."

The examiner respectfully disagrees with the applicant and maintains that figure 1C does meet the cited limitation. The highlighting of the sweater shown in figure 1C is a special effect signifies to the end user that object appears, or is part of, the spokesperson representation (that is, this is a selectable object). Even if the claim is read as causing an object to appear on the screen when it was not there before, the examiner maintains that the reference still meets the limitation. If the invention disclosed in Bove is able to add highlighting or coloring in the object (fig. 1B, paragraph

31, lines 8-13) to a particular object, then it is readily able to make an object appear or disappear or some such other special effect.

In paragraph 3, starting on page 9, the applicant traverses the rejection of Claim 2. The applicant states that the citation from Wagner does not meet the limitation of a seamless transistion between two video segments.

The examiner respectfully disagrees with the applicant and maintains that the citation from Wagner does meet the cited limitation. Wagner provides a seamless transition between two segments (in this case television and interactive content, col. 3, lines 13-16). The combined disclosure of Bove and Portuesi already disclose that two advertising segments. Wagner, in combination with Bove and Portuesi do meet the limitations of dependent claim 2.

In paragraph 1 of page 10, the applicant traverses the rejection of Claim 3. The applicant states that Pawson does not meet the limitation of a "seamless transition by use of a common predetermined home position" (pg. 10, paragraph 1, lines 3-4).

The examiner respectfully disagrees with the applicant and maintains that the citation from Pawson does meet the limitations. In column 1, from lines 38-55, Pawson discloses how after playing a commercial, the viewer is returned to a predetermined position in the program (that could be referred to as a home position), regardless of what commercial segment was run (therefore, the home position is common to all segments). This transfer from one segment to another is a seamless transition (col. 2, lines 12-17).

In paragraph 2, starting on page 10, the applicant traverses the rejections of independent claim 11 and dependent claims 12 and 13. The applicant states that Szabo does not meet the limitation of "basing compensation for a spokesperson based on statistics for the number of delivered selectable video advertisements segments." The applicant further states that the click-through model would compensate the cable television company and not the spokesperson.

The examiner respectfully disagrees with the applicant and maintains that the citation from Szabo does meet the limitations. Compensating a spokesperson or actor for appearing in a broadcast segment is well known in the art (such as paying actors when the show hits syndication). What is not well known in the art is basing this compensation directly on statistics dealing with the individual selection of the segment by viewers. Szabo, by teaching basing compensation on click-throughs (a form of statistic), teaches this limitation.

Applicant's failure to adequately traverse the Examiner's taking of the Official Notices in the last Office Action is taken as an admission of the fact(s) noticed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4, 5, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bove (US 2002/0049983) in view of Portuesi (US 6,499,051).

As regards Claim 1, Bove discloses an interactive video advertisement package for delivery over a broadcast interactive television medium comprising an initial real time, predetermined video advertisement segment deliverable over the broadcast interactive television medium, including a dynamic sequence presenting a spokesperson representation (page 2, paragraph 32) having a plurality of selectable zones with each zone defined in relation to a unique part of the spokesperson representation (page 6, paragraph 61, lines 1-4). An advertisement is understood as being any video segment that presents sellable merchandise to the viewer. A spokesperson is understood as being any actor, actress, character, or entity involved in presenting a product to the viewer. Bove does not disclose a plurality of selectable, predetermined video advertisement segments, deliverable over the broadcast interactive television medium and presented as a continuation of the dynamic sequence of the spokesperson representation, each selectable video advertisement segment corresponding to one of the plurality of selectable zones and selectively delivered to a viewer in direct response to selection by the viewer of that zone. Portuesi discloses a plurality of selectable, predetermined video advertisement segments, deliverable over the broadcast interactive television medium and presented as a continuation of the dynamic sequence of the spokesperson representation, each selectable video advertisement segment corresponding to one of the plurality of selectable zones and

selectively delivered to a viewer in direct response to selection by the viewer of that zone (col. 1, lines 35-37 and col. 3, lines 46-50).

At the time of invention it would have been obvious to a person of ordinary skill in the art to launch supplementary video images, as in Portuesi, in analogous art, in the system of Bove because advertisers may think a video presentation is more persuasive or informative than showing text data about the product.

As regards Claim 4, Bove further discloses that at least two selectable zones are created from an image mapping of a video frame of the advertisement segment to demarcate a unique part of the spokesperson representation (paragraph 61, lines 1-5).

As regards Claim 5, Portuesi further discloses at least one selectable zone that includes a margin around a mapped image (fig. 4.40).

As regards Claim 6, Bove further discloses at least one advertisement segment that includes a special effect of causing an object to appear as part of the spokesperson representation (Fig 1C).

As regards Claim 8, Bove further discloses viewer recognition of the spokesperson representation that is created by repeated advertising exposure of the spokesperson representation (paragraph 32 lines 1-3). Repeated advertising exposure is understood as showing a character throughout multiple frames of the interactive broadcast.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bove (US 2002/0049983) in view of Portuesi (US 6,499,057) and Wagner (6,600,496).

As regards Claim 2, Bove and Portuesi jointly disclose the interactive video advertisement package of Claim 1, however, they do not disclose a transition occurring between the initial advertisement segment and the selected selectable advertisement segment where the transition is seamless. Wagner discloses a transition between the initial advertisement segment and the selected selectable advertisement segment where the transition is seamless (col. 3, lines 13-17).

At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the seamless transition of Wagner to the system of Bove and Portuesi to provide a better experience for the end user.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bove (US 2002/0049983) in view of Portuesi (US 6,499,057), Wagner (6,600,496), and Pawson (US 6,944,585).

As regards Claim 3, Bove, Portuesi and Wagner jointly disclose the interactive video advertisement of Claim 2. Bove, Portuesi and Wagner do not disclose a seamless transition made by ending the initial advertisement segment and beginning each selectable advertisement segment using a common predetermined home position. Pawson discloses a seamless transition made by ending the initial advertisement segment and beginning each selectable advertisement segment using a common predetermined home position (col. 1, lines 138-59 and col.2 13-17).

Bove, Portuesi, Wagner, and Pawson are analogous art because they both come from the same field of endeavor, namely multimedia broadcasting.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to insure a seamless transition between initial advertising segment and beginning each selectable advertising segment, as in Pawson, an analogous art, in Bove's, Portuesi's, and Wagner's television broadcast method because it provides a more enjoyable experience for the viewer.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bove (US 2002/0049983) in view of Portuesi (US 6,499,057).

As regards Claim 7, Bove and Portuesi jointly disclose the interactive video advertisement package in Claim 1. The examiner takes official notice it would have been known to use a spokesperson representation where viewer recognition is inherent for the benefit of using that spokesperson representation's popularity to improve the persuasiveness of the advertisement.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bove (US 2002/0049983) in view of Portuesi (US 6,499,057) and Klosterman (US 2003/0188310).

As regards Claim 9, Bove and Portuesi jointly disclose the interactive video advertisement package in Claim 1, however they do not disclose a real time picture-in-picture window selectable zone that appears displaying real time video programming while the viewer is viewing one of the selectable advertisement sections in cyber time, and wherein the viewer is returned to real time video programming in direct response to selecting the real time selectable zone. Klosterman discloses a real time picture-in-

picture window selectable zone that appears displaying real time video programming while the viewer is viewing one of the selectable advertisement sections in cyber time, and wherein the viewer is returned to real time video programming in direct response to selecting the real time selectable zone (fig. 6(d).688).

Bove, Portuesi, and Klosterman are analogous art because they both come from the same field of endeavor, namely interactive multimedia broadcasting.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to use a selectable zone for a picture-in-picture presentation of the non-advertising content, as in Klosterman, an analogous art, in Bove's and Portuesi's television broadcast so that the viewer can keep watching the television show while also viewing the advertising content.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bove (US 2002/0049983) in view of Portuesi (US 6,499,051).

As regards Claim 10, Bove discloses a method of presenting an interactive video advertisement package over a broadcast interactive television medium comprising simultaneously delivering an initial real time, predetermined video advertisement segment to a plurality of viewers over the broadcast interactive television medium (paragraph 4, lines 1-3), wherein the initial video advertisement segment includes a dynamic sequence presenting a spokesperson representation (paragraph 32) having a plurality of selectable zones with each zone defined in relation to a unique part of the spokesperson representation (paragraph 61, lines 1-4). Bove does not disclose a

plurality of selectable, predetermined video advertisement segments, presented as a continuation of the dynamic sequence of the spokesperson representation, each selectable video advertisement segment corresponding to one of the plurality of selectable zones, and in response to a selection of a selectable zone by one of the plurality of viewers, directly delivering the corresponding selectable video advertisement segment to that viewer over the broadcast interactive television medium. Portuesi discloses a plurality of selectable, predetermined video advertisement segments, presented as a continuation of the dynamic sequence of the spokesperson representation, each selectable video advertisement segment corresponding to one of the plurality of selectable zones, and in response to a selection of a selectable zone by one of the plurality of viewers, directly delivering the corresponding selectable video advertisement segment to that viewer over the broadcast interactive television medium (col. 1, lines 35-37 and col. 3, lines 46-50).

At the time of invention it would have been obvious to a person of ordinary skill in the art to launch supplementary video images, as in Portuesi, in analogous art, in the system of Bove because advertisers may think a video presentation is more persuasive or informative than showing text data about the product.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bove (US 2002/0049983) in view of Portuesi (US 6,499,051) and Szabo (US 6,868,525).

As regards Claim 11, Bove discloses an interactive video advertisement package delivered over a broadcast interactive television medium comprising preparing an initial real time, predetermined video advertisement segment, wherein the initial video advertisement segment includes a dynamic sequence presenting a representation of the spokesperson, the representation having a plurality of selectable zones with each zone defined in relation to a unique part of the representation (paragraph 61, lines 1-4) and delivering the initial video advertisement to a plurality of viewers over the broadcast interactive television medium (paragraph 4 lines 1-3). Bove does not disclose preparing a plurality of selectable, predetermined video advertisement segments, each selectable video advertisement segment corresponding to one of the plurality of selectable zones and selectively deliverable over the broadcast interactive television medium and in response to the selection of a selectable zone by one of the plurality of viewers directly delivering the corresponding selectable video advertisement segment to that viewer over the broadcast interactive television medium and determining compensation to the spokesperson based at least in part on statistics associated with the delivery of the selectable video advertisement segments. Portuesi discloses a plurality of selectable, predetermined video advertisement segments, each selectable video advertisement segment corresponding to one of the plurality of selectable zones and selectively deliverable over the broadcast interactive television medium and in response to a selection of a selectable zone by one of the plurality of viewers, directly delivering the corresponding selectable video advertisement segment to the viewer over the broadcast interactive television medium (col. 1, lines 35-37 and col. 3, lines 46-50).

At the time of invention it would have been obvious to a person of ordinary skill in the art to launch supplementary video images, as in Portuesi, in analogous art, in the system of Bove because advertisers may think a video presentation is more persuasive or informative than showing text data about the product.

Portuesi does not disclose a method of determining compensation to the spokesperson based at least in part on statistics associated with the delivery of the selectable video advertisement segments. Szabo discloses a method of determining compensation to the spokesperson based at least in part on statistics associated with the delivery of the selectable video advertisement segments (col. 4, lines 29-38). Associated statistics is understood to mean any way of evaluating the use of a certain ad, including "click throughs."

Bove, Portuesi, and Szabo are analogous art because they both come from the same field of endeavor, namely interactive multimedia methods.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to use the compensation scheme mentioned in Szabo with the interactive advertising jointly disclosed in Bove and Portuesi because it allows a verifiable way to charge an advertiser every time the spokesperson appears on the user's screen.

As regards Claim 12, Szabo further discloses selectable zones that represent different products of a plurality of parties and compensation to the spokesperson is paid by a plurality of parties based at least in part on the statistics associated with the delivery of the selectable video advertisement segments for each of the different products (col 4, lines 29-38).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bove (US 2002/0049983) in view of Portuesi (US 6,499,051) and Szabo (US 6,868,525).

As regards Claim 13, Bove, Porteusi, and Szabo jointly disclose the method of claim 11. The examiner takes official notice it would have been known that the supplier of the interactive broadcast television medium is compensated based at least in part on a per time slot basis for delivery of the initial advertisement video segment and in part on a per selection basis for the delivery of the selectable advertisement video segments for the benefit of providing price options for advertisers with different budget sizes as well as compensating broadcasters appropriately for more attractive time slots.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

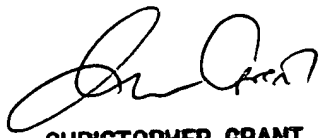
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R. O'Steen whose telephone number is 571-272-7931. The examiner can normally be reached on 8:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DRO



CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600